

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Deepa Ramaswamy

Serial No.: 10/064,894

Filed: August 27, 2002

Group Art Unit: 3661

Examiner: Christine M. Behncke

For: VEHICLE SYSTEM CONTROLLER WITH MODULAR ARCHITECTURE

Attorney Docket No.: 200-1576 / FMC 1649 PUS

Pre-Appeal Brief Request for Review

Mail Stop AF
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicants respectfully submit this Pre-Appeal Brief Request for Review. No amendments are being filed with this request. This request is being filed with a Notice of Appeal.

Remarks

In response to the final Office Action mailed December 13, 2006, the Applicants elect to proceed to Appeal. This Pre-Appeal Brief request is filed in an attempt to clarify the issues for appeal. While the final Office Action includes numerous rejections, the Applicants would like to address only a portion of the rejections, specifically with respect to claims 38 and 30. The remarks are limited to these rejections only to clarify the issues for appeal and to address what are believed to be clear errors in the Examiner's rejections. This limited response is made without prejudice and without conceding the Examiner's arguments with respect to the rejected claims.

Claims 38 and 39 stand rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement and 35 U.S.C. § 103(a) for being unpatentable in light of the Horsley and Colson Patents. The Applicants submit that claims 38 and 39 do comply with the written description requirement and that the Horsley and Colson patent fails to disclose each limitation recited in claims 38 and 39.

35 U.S.C. § 112, first paragraph

Claims 38 and 39 include limitations directed towards a vehicle system controller for a vehicle having a number of control portions which are removed from the controller without disrupting operations of the other control portions. The Examiner submits the Specification fails to convey to one having ordinary skill in the art that the inventors, at the time of filing the application, were in possession of the subject matter associated with the above-described claim limitations.

The Applicants disagree with the Examiner's position. The application, at paragraph 26, clearly states that the controls portions are removable and the architecture of the

controller “enables relatively easy replacement of one type of functionality for another.” The controller is partitioned so that a control portion of one type of functionality can be removed and replaced without another type of functionality.

In order to achieve continued operation of the controller and to permit one control portion to be replaced with another type of functionality, the control portions must be removable without disrupting the operation of the other control portions. The control portions would not be replaceable with another type of functionality if such replacement disrupted the operation of the other control portions. Consequently, the Specification, which states that the control portions may be replaced with different functionality, supports the Applicants argument that they were in possession of the claimed invention at the time of filing.

35 U.S.C. § 103(a)

Claims 38 and 39 include limitations directed towards a vehicle system controller for a vehicle having a number of control portions which are removed from the controller without disrupting operations of the other control portions. The Examiner submits the combination of the Horsley and Colson patents disclose these limitations. The Applicants, without conceding whether there is any motivation to combine the cited references, submit that cited references fail to teach the noted limitations.

The Examiner admits the failure of the Horsley patent to teach that the control portions are removed from the controller without disrupting operations of the other control portions and instead the Examiner relies on the Colson patent. The Colson patent, however, fails to make up for the deficiencies of the Horsley patent as the Colson patent similarly fails to teach that the control portions are removed from the controller without disrupting operations of the other control portions.

The Examiner submits the following portion of the Colson patent teaches the noted claimed limitations:

More recently, computing architectures have incorporated a component approach. In these computing architectures, the base platform is composed by lower level components in an architecturally consistent fashion. This approach yields a more modular approach to software platforms, **which allow any component to be replaced by another component, which achieves the same task.** What allows this exchangeability of components is the standardization of software interfaces. A component is built to support one or more interfaces and provides these services to the computing platform. Any other component, which also implements those interfaces, can be used as a replacement. (column 1, lines 16-27, emphasis added)

The Colson patent discloses a modular approach where components may be replaced with other components that achieve the “same” task. The replacement of the components with the same task fails to teach that the components may be replaced without disrupting operations of the other components. It implies that the components must be replaced with the same functionality or else the operation of the other components will be disrupted. This is inapposite to the claimed invention which enables the control portions to be removed and replaced with different functionality and without disrupting operation of the other control portions.

Because the Colson patent requires components to be replaced with components providing the same task, the components are not removable without disrupting operation of the other components. Consequently, the Colson patent fails to make up for the deficiencies of the Horsley patent and the combination thereof fails to teach the invention recited in claims 38 and 30.

Reconsideration of the issues set forth above is respectfully requested. These issues are set forth without prejudice to the other issues present in the Office Action.

Respectfully submitted,

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